

**FREQUENTLY ASKED QUESTIONS REGARDING THE
REQUEST FOR
REPORT OF WASTE DISCHARGE FOR
EXISTING MILK COW DAIRIES**

The Central Valley Regional Water Quality Control Board (Regional Board) is requiring that all owners and/or operators of existing milk cow dairies submit a Report of Waste Discharge by 17 October 2005. The following Frequently Asked Questions (FAQs) are intended to answer questions you may have about this request. If you have additional questions, you may contact the appropriate Regional Board staff person as noted in FAQ # 21 below. The FAQs will be continually updated to include answers to new questions that are asked.

***WHAT IS A REPORT OF WASTE DISCHARGE AND
WHY DOES IT APPLY TO DAIRIES?***

1. What is a Report of Waste Discharge?

A Report of Waste Discharge (ROWD) is a report submitted to the Regional Board by facilities such as dairies that store, handle, or land apply waste within the region that could affect the quality of the waters of the state (see # 4 below). The ROWD is required by the Porter-Cologne Water Quality Control Act (California Water Code Section 13260, see # 43 below) and must include information on the character, location, and volume of the waste discharge.

2. What is a waste discharge?

A waste discharge is a discharge or release of any of the wastes identified in # 3 below to land, surface water, or groundwater. Discharges of waste include leakage and/or seepage from wastewater ponds and application of manure and wastewater to cropland.

3. What types of waste does a dairy produce that could affect the quality of the waters of the state?

Animal waste, bedding, dairy wash water, and rain water or drainage that has come into contact with animal waste, bedding, dairy wash water, or feed are all considered dairy waste that may impact water quality.

4. What are waters of the state?

Waters of the state include any surface water or groundwater, including saline waters, within the boundaries of the state.

5. *What is the difference between a Report of Waste Discharge and Waste Discharge Requirements?*

A Report of Waste Discharge (ROWD) is defined in # 1 above and is the application to obtain Waste Discharge Requirements. Waste Discharge Requirements are requirements adopted by the Regional Board that a discharger must meet to comply with the state laws and regulations to protect surface water and groundwater quality. Waste Discharge Requirements are based, in part, on the information provided in a ROWD.

DOES THIS REALLY APPLY TO ME?

6. *I lease my dairy facility. Do I need to submit a Report of Waste Discharge or does the landowner need to submit it?*

Both the lease-holder (operator) and the landowner are responsible to ensure that the Report of Waste Discharge (ROWD) is submitted to the Regional Board. Both the operator and the landowner must sign the ROWD. Either of you can submit the fully signed form.

7. *I operate a small dairy. Do I need to submit a Report of Waste Discharge?*

Yes. The request you received to submit a Report of Waste Discharge is being made under the authority of California Water Code. The California regulations apply to dairies of all sizes.

8. *I have been milking cows at this dairy for more than 20 years. Do I need to submit a Report of Waste Discharge?*

Yes. All existing milk cow dairies in the Central Valley regardless of age are required to submit a Report of Waste Discharge.

9. *I do not discharge wastes from my dairy. Do I still need to submit a Report of Waste Discharge?*

Yes. The handling of manure or wastewater or the application of manure or wastewater to cropland at an existing dairy is considered a waste discharge as this could affect the quality of waters of the state (see #s 2 and 3 above). As noted in # 1 above, a Report of Waste Discharge is required for such waste discharges.

10. *I sell all my milk for cheese making or for dried milk and other indirect milk products. Do I still need to submit a Report of Waste Discharge?*

Yes. If you own or operate an existing dairy in the Central Valley from which milk is produced at the dairy and sold for either direct or indirect human consumption, you must submit a Report of Waste Discharge (ROWD) with the Regional Board. Milk production for cheese processing or the development of powdered milk would be considered indirect human consumption and you would need to submit a ROWD.

11. *I produce milk at my dairy in the Central Valley but I sell the milk through my dairy outside the Central Valley. Do I still need to submit a Report of Waste Discharge?*

Yes. If you own or operate an existing dairy in the Central Valley from which milk is produced at the dairy and sold either inside or outside of the Central Valley, you must submit a Report of Waste Discharge to the Regional Board.

12. *Milk is not produced for sale at my dairy facility. Do I still need to submit a Report of Waste Discharge?*

No. The requirement to submit a Report of Waste Discharge is only for those who own and/or operate existing milk cow dairies from which milk is produced and sold. If you do not own or operate such a dairy, please request the Regional Board (see # 21 for a list of contacts) to remove you from the existing milk cow dairy mailing list.

13. *I have a grazing dairy and my cows are only confined at milking time. Do I need to submit a Report of Waste Discharge?*

Yes. Even though your cows are only confined at milking time, you still need to submit a Report of Waste Discharge that describes how you store, handle, and dispose of your dairy wastes. The Regional Board will evaluate that information to determine if Waste Discharge Requirements are appropriate or if it is appropriate to waive Waste Discharge Requirements for your dairy.

14. *I have a heifer facility that raises cows but does not have a milk barn. Do I need to submit a Report of Waste Discharge for that facility?*

No. The Report of Waste Discharge (ROWD) is only for those who own and/or operate existing milk cow dairies from which milk is produced and sold. If you do not own or operate such a dairy, please request the Regional Board (see # 21 below for a list of contacts) to remove you from the existing milk cow dairy mailing list.

You will likely be placed on another type of facility mailing list and asked to submit a ROWD when that facility type is requested to do so.

- 15. *I submitted a Report of Waste Discharge and filing fee in the past, but was not placed under Waste Discharge Requirements, a National Pollutant Discharge Elimination Permit, or a waiver of Waste Discharge Requirements. Do I have to submit another Report of Waste Discharge and more money?***

Yes. You need to submit another Report of Waste Discharge (ROWD) to provide current information on your operation. Be sure to note any previous ROWD submissions on your completed ROWD Form. The response should be included in question # D under the “Additional Information” section.

You must also submit the annual fee with your ROWD. If we confirm that you have paid a filing fee within the last three years, that filing fee will be credited against future annual fees. The fee schedule used by the State Water Resources Control Board allows for such a credit.

If you have expanded your dairy since you submitted your previous ROWD, the filing fee you paid in the past will not be credited towards your annual fee.

- 16. *Do I need to submit a Report of Waste Discharge if my dairy is currently operating under Waste Discharge Requirements? Do I need to pay the annual fee?***

Yes, you need to submit the Report of Waste Discharge (ROWD). The ROWD requested will provide us with information about your dairy that we do not currently have and will provide us with consistent information on all existing dairies.

If your dairy is currently operating under Waste Discharge Requirements, you do not need to submit an annual fee in response to this request. However, you are still obligated to submit your annual fee in response to your annual fee bill from the State Water Resources Control Board.

- 17. *I have submitted a Notice of Intent to comply with the National Pollutant Discharge Elimination System General Industrial Storm Water Permit and I have been paying annual fees. Do I have to complete the Report of Waste Discharge and send it in with a fee payment?***

Yes. You must submit both the Report of Waste Discharge (ROWD) and the annual fee. The National Pollutant Discharge Elimination System (NPDES) General Industrial Storm Water Permit is a separate permit and fee system not related to this request for a ROWD. You will be required to pay two annual fees, one for the

Waste Discharge Requirements (when issued) and one for the NPDES General Industrial Storm Water Permit.

18. *I am covered under the National Pollutant Discharge Elimination System General Industrial Storm Water Permit. If I am required to be covered separately under Waste Discharge Requirements, can I terminate my coverage under the NPDES General Industrial Storm Water Permit?*

You may request to have your coverage under the National Pollutant Discharge Elimination System (NPDES) General Industrial Storm Water Permit terminated by completing and submitting to the Regional Board the “Notice of Termination of Coverage Under the General Storm Water Permit” that is available on the State Water Resources Control Board web site at

<http://www.waterboards.ca.gov/stormwtr/docs/induspmt.pdf>, or you may contact Regional Board staff (see # 21 below) for this information.

Please be aware that if your coverage under the NPDES Permit is terminated and if at any time you have a discharge of wastewater from the production area of your dairy (the animal confinement areas, barn areas, feed and manure storage areas, and the retention pond(s)) to surface water you will be in violation of Title 27 (Division 2, Subdivision 1, Chapter 7, Subchapter 2, Article 1) of the California Code of Regulations, which requires that such discharges are only allowable if your dairy is operating under an NPDES Permit. Such discharges would also violate the federal Clean Water Act. These violations could result in the assessment by the Regional Board of monetary liability and/or the filing of citizen lawsuits against you.

19. *I am in a watershed or coalition group that has a waiver of Waste Discharge Requirements for irrigated lands. Do I need to submit a Report of Waste Discharge?*

Yes. The waiver of Waste Discharge Requirements for your watershed or coalition group only applies to irrigated lands that do not receive dairy wastes. It does not apply to a dairy facility or the associated land where the dairy wastes are applied. For those irrigated lands where you do not apply dairy waste but apply irrigation water and discharge water to surface waters, you must operate under the waiver for irrigated lands, submit a report of waste discharge for such discharges, or demonstrate to the Regional Board why you are not subject to regulations. You may obtain further information by contacting a Regional Board representative as noted in # 21 below.

20. *If I do not agree with this, how can I protest it?*

You may address your concerns to the Regional Board contacts shown in # 21 below.

WHERE CAN I GET HELP WITH THIS?

21. What resources are available to help me complete the Report of Waste Discharge Form?

The California Dairy Quality Assurance Program (CDQAP) has indicated it will hold several meetings to assist dairy owners and operators with this issue. These meetings are presently being scheduled and will be listed on the Regional Board web site at <http://www.waterboards.ca.gov/centralvalley/news/index.html> as soon as they are available. Please check this web site frequently for updates on the meetings schedule. The Regional Board has also been advised that dairy producers will receive notification of these meetings from their processor. You may also check your trade association and local dairy newsletters for meeting information.

You may also contact the following Regional Board staff for help according to the county your dairy is located in.

For dairies in Fresno, Kern, Kings, Madera, Mariposa, and Tulare counties:

Contact David Sholes: Phone (559) 445-6279
E-mail: dsholes@waterboards.ca.gov

For dairies in Butte, Lassen, Modoc, Plumas, Tehama, and Shasta counties:

Contact Mary Randall: Phone: (530) 224-4860
E-mail: mrandall@waterboards.ca.gov

For dairies in Glenn, Lake, Colusa, Sutter, Yuba, Sierra, Nevada, Placer, El Dorado, Napa, Yolo, Solano, Sacramento, Amador, Calaveras, Contra Costa, San Joaquin, Alameda, Stanislaus, Tuolumne, and Merced counties:

Contact Charlene Herbst: Phone: (916) 464-4724
E-mail: cherbst@waterboards.ca.gov

DO I NEED TO PAY ANY FEES?

22. Is there a fee associated with the Report of Waste Discharge?

Yes. You will be required to pay an annual fee when the Regional Board adopts Waste Discharge Requirements for your dairy facility. You are required to submit your first annual fee with your Report of Waste Discharge.

23. *Why do I have to pay an annual fee?*

An annual fee is required to be submitted with each Report of Waste Discharge pursuant to California Water Code Section 13260(d)(1)(A). The annual fee is based on a schedule established by the State Water Resources Control Board.

The State Water Resources Control Board has established annual fees for Confined Animal Feeding Operations pursuant to Title 23 California Code of Regulations Division 3, Chapter 9, Article 1. You can see the annual fee schedule on the State Water Resources Control Board web site at

<http://www.waterboards.ca.gov/fees/docs/adoptedfeeschedule.doc>.

24. *What is the annual fee based on?*

The annual fee is based on the number of mature dairy cows (see footnote 2 in the table below) at a dairy. An Ambient Water Monitoring surcharge is required to be added to each individual fee. This surcharge is 9% of the individual fee. The annual fee, based on the number of mature dairy cows and the 9% surcharge, is shown in the table below.

Number¹ of Mature Dairy Cows²	Annual Fee with Surcharge
3,000 or more	\$4,360
1,500 to 2,999	\$2,725
700 to 1,499	\$1,308
300 to 699	\$654
Less than 300	\$327

¹ The number of mature dairy cows is the number that you have at the time you submit your Report of Waste Discharge.

² A mature dairy cow is one that has produced milk at any time during her life (i.e., lactating cows and dry cows).

25. *Is there any way I can reduce my annual fee?*

Yes. The State Water Resources Control Board (State Water Board) has established a 50% fee reduction for dairies certified under a quality assurance program approved by the State Water Board or a County regulatory program approved by the appropriate Regional Board. Dairies certified under the California Dairy Quality Assurance Program Environmental Stewardship Module will receive a 50% reduction in the annual fees shown in the Table above. At this time, the Regional Board has not approved any County regulatory programs for a fee reduction.

26. *How is the annual fee for my dairy determined?*

The annual fee for your dairy is based on your number of mature dairy cows, a 9% surcharge (see # 24 above), and a 50% fee reduction if your dairy is certified by the California Dairy Quality Assurance Program Environmental Stewardship Module (CDQAP-ESM) (see #25 above). The annual fee for your dairy can be determined from the table below.

Number Of Mature Dairy Cows	ANNUAL FEE For Dairies Not Certified by CDQAP-ESM (includes 9% surcharge)	ANNUAL FEE for Dairies Certified by CDQAP-ESM (includes 9% surcharge)
3,000 or more	\$4,360	\$2,180
1,500 to 2,999	2,725	1,363
700 to 1,499	1,308	654
300 to 699	654	327
Less than 300	327	164

27. *To whom do I make the annual fee payable?*

The annual fee must be made payable to the **State Water Resources Control Board** and submitted with the Report of Waste Discharge Form to the appropriate Regional Board office as noted below.

For dairies in Fresno, Kern, Kings, Madera, Mariposa, and Tulare counties:

California Regional Water Quality Control Board
Central Valley Region
1685 E Street
Fresno, CA 93706-2007
Attention: Confined Animal Regulatory Unit

For dairies in Butte, Lassen, Modoc, Plumas, Tehama, and Shasta counties:

California Regional Water Quality Control Board
Central Valley Region
415 Knollcrest Drive, Suite 100
Redding, CA 96002
Attention: Confined Animal Regulatory Unit

For dairies in Glenn, Lake, Colusa, Sutter, Yuba, Sierra, Nevada, Placer, El Dorado, Napa, Yolo, Solano, Sacramento, Amador, Calaveras, Contra Costa, San Joaquin, Alameda, Stanislaus, Tuolumne, and Merced counties:

California Regional Water Quality Control Board
Central Valley Region
11020 Sun Center Drive #200
Rancho Cordova, CA 95670-6114
Attention: Confined Animal Regulatory Unit

28. *How often do I have to pay the annual fee?*

You will be required to pay an annual fee every year once the Regional Board has adopted Waste Discharge Requirements for your dairy.

29. *Will I be billed for the annual fee in the future or will it be up to me to remember it?*

The State Water Resources Control Board will bill you once every year after the Regional Board adopts Waste Discharge Requirements for your dairy. Historically, this billing has been done in the fall.

WHAT HAPPENS NEXT?

30. *What happens after I submit my Report of Waste Discharge and annual fee?*

Regional Board staff will conduct an initial evaluation of the information you provided in your Report of Waste Discharge. In the months following your submittal, Regional Board staff will be asking you to provide more detailed information about your facility. This information will be used to determine whether your operation presents a threat to water quality and how that can be avoided.

31. *Who reviews the Report of Waste Discharge? Is it accessible to the public?*

Regional Board staff will conduct an initial review of your Report of Waste Discharge (ROWD). All ROWDs are public records and are accessible to the public for viewing.

32. *When and under what conditions will I need to update my Report of Waste Discharge?*

You must submit an updated Report of Waste Discharge (ROWD) if you propose to make any material change in the character, location, or volume of your discharge (California Water Code Section 13260(c)). For example, you would be required to

submit an updated ROWD if you want to put whey in your retention pond, significantly increase the number of mature dairy cows you house, construct a new retention pond to accommodate an increased herd size, develop and install a new waste treatment technology such as an anaerobic digester, or acquire new cropland for application of dairy wastes. The examples given do not exclude other changes for which an updated ROWD would be required. We recommend that you contact your Regional Board representative (see # 21 above) if you have any questions regarding whether any change at your dairy would require an updated ROWD.

33. *Will updating the Report of Waste Discharge require me to go through the California Environmental Quality Act process?*

The Regional Board will have to make that determination for each updated Report of Waste Discharge (ROWD) it receives. If the updated ROWD is the result of an expansion in your herd size, increased wastewater storage capacity, or an increase in your land application area, it is likely that you will have to go through the California Environmental Quality Act (CEQA) process. Most counties will act as the lead agency in the CEQA process. However, if the county does not act as the lead agency, the Regional Board will act as the lead agency for CEQA purposes.

WHAT HAPPENS IF I DON'T SUBMIT THE REQUIRED INFORMATION?

34. *What will happen if I do not submit the Report of Waste Discharge?*

If you do not submit a complete Report of Waste Discharge, then the Regional Board may notify you in writing of a discharge violation. At that time, for each day you knowingly discharge waste to waters of the State, the Regional Board may assess monetary liability of up to \$1,000 per day. In some cases the Superior Court can impose monetary liability in an amount up to \$5,000 per day.

35. *What will happen if I submit my Report of Waste Discharge after 17 October 2005?*

If the Report of Waste Discharge is not submitted by 17 October 2005, enforcement action can be taken in form of a civil liability as described in the response to # 34 above.

36. *What will happen if I do not include all of the requested information in the Report of Waste Discharge Form?*

If all of the information requested in the Report of Waste Discharge (ROWD) Form is not provided, or if the form is not signed by the required persons, your ROWD will be considered to be incomplete. You may then be subject to the enforcement actions noted in # 34 above.

37. *What will happen if I submit the Report of Waste Discharge without the annual fee?*

If you do not submit the annual fee with the Report of Waste Discharge (ROWD), the ROWD will be considered to be incomplete. You may then be subject to enforcement action as noted in the response to # 34 above.

DO I NEED A NATIONAL POLLUTANT DISCHARGE ELIMINATION SYSTEM PERMIT?

38. *What is a National Pollutant Discharge Elimination System Permit?*

A National Pollutant Discharge Elimination System (NPDES) Permit is a permit required by the federal Clean Water Act for anyone who discharges pollutants from any point source to surface water. A dairy facility is considered a point source under the federal Clean Water Act. An NPDES permit includes specific limitations, standards, and other conditions that must be met to comply with the federal regulations.

39. *Should I be covered under a National Pollutant Discharge Elimination System Permit?*

You are not required to apply for a National Pollutant Discharge Elimination System (NPDES) Permit unless you discharge wastes from your dairy to surface water.

40. *If I have a discharge to surface water and am not covered under a National Pollutant Discharge Elimination System Permit, what will happen?*

If you are not covered under a National Pollutant Discharge Elimination System (NPDES) Permit and you discharge waste from the production area of your dairy (the animal confinement areas, barn areas, feed and manure storage areas, and the retention pond(s)) to surface water, you will be in violation of both Title 27 of the California Code of Regulations (Title 27) and the federal Clean Water Act. The Clean Water Act and Title 27 California Code of Regulations Division 2, Subdivision 1, Chapter 7, Subchapter 2, Article 1 requires that such discharges are only allowable if your dairy is operating under an NPDES Permit. These violations could result in the assessment of monetary liability and/or to the filing of citizen lawsuits against you.

WHO IS THE REGIONAL BOARD AND WHAT IS ITS AUTHORITY?

41. What is the Central Valley Regional Water Quality Control Board?

The State Water Resources Control Board (State Water Board) and the nine regional water quality control boards are the state agencies with the primary responsibility for protecting the quality of the waters of the state (see # 4 above). The Central Valley Regional Water Quality Control Board (Regional Board) is one of the nine regional boards that functions under the authority of the Porter-Cologne Water Quality Control Act (see # 43 below). The Regional Board's mission is to preserve and enhance the quality of water resources in the Central Valley (Sacramento and San Joaquin Valleys) for the benefit of present and future generations. The responsibilities and procedures of the State Water Board and the nine regional water quality control boards can be found in the Porter-Cologne Water Quality Control Act.

42. What is the California Water Code?

The California Water Code, created by the California Legislature in 1943, dictates the state's general powers over water. It includes the Porter-Cologne Water Quality Control Act (see # 43 below). The California Water Code can be found on the State Water Resources Control Board web site at http://www.waterboards.ca.gov/water_laws/index.html.

43. What is the Porter-Cologne Water Quality Control Act?

The Porter-Cologne Water Quality Control Act was adopted by the California Legislature in 1969 as Division 7 of the California Water Code. It established the State Water Resources Control Board (State Water Board) and the nine regional water quality control boards and gave the State Water Board authority over State water rights and water quality policy. It gave each of the nine regional water quality control boards the responsibility to adopt water quality control plans for their regions, to issue waste discharge requirements to implement the water quality control plans, and to take enforcement actions to protect water quality. The Porter-Cologne Water Quality Control Act can be found on the State Water Resources Control Board web site at http://www.waterboards.ca.gov/water_laws/index.html.

WHERE CAN I FIND MORE INFORMATION?

You can find the following information on the noted web sites. If you do not have internet access, you may contact Charlene Herbst in the Sacramento office at (916) 464-4724, David Sholes in the Fresno office at (559) 445-6279, or Mary Randall in the Redding office at (530) 224-4860 (see # 21 above).

- 44. A copy of the 27 May 2003 letter from the Regional Board to dairy owners and/or operators in the Central Valley?***

http://www.waterboards.ca.gov/centralvalley/available_documents/index.html#confined.

- 45. A copy of the draft National Pollutant Discharge Elimination System (NPDES) General Permit for Existing Milk Cow Dairies that was released in September 2004?***

http://www.waterboards.ca.gov/centralvalley/available_documents/index.html#confined.

- 46. The United States Environmental Protection Agency (U.S. EPA) Concentrated Animal Feeding Operation (CAFO) Rule?***

http://cfpub.epa.gov/npdes/afo/cafofinalrule.cfm?program_id=7.

- 47. The California Code of Regulations requirements for annual fees?***

<http://www.waterboards.ca.gov/fees/docs/adoptedfeeschedule.doc>.

- 48. The California Water Code and Porter-Cologne Water Quality Control Act?***

http://www.waterboards.ca.gov/water_laws/index.html.

- 49. Another copy of the Report of Waste Discharge Form?***

http://www.waterboards.ca.gov/centralvalley/available_documents/index.html#confined.

- 50. The Regional Board web site?***

<http://www.waterboards.ca.gov/centralvalley/>.

51. *Information on the Regional Board?*

http://www.waterboards.ca.gov/centralvalley/board_information/index.html.

52. *Section 13260 of the California Water Code?*

http://www.waterboards.ca.gov/water_laws/docs/portercologne.pdf.

53. *The State Water Resources Control Board National Pollutant Discharge Elimination System (NPDES) General Industrial Storm Water Permit?*

<http://www.waterboards.ca.gov/stormwtr/docs/induspmt.pdf>.

54. *A list of Regional Board contacts?*

http://www.waterboards.ca.gov/centralvalley/available_documents/index.html#confined.

55. *Senate Bill (SB) 390?*

http://info.sen.ca.gov/pub/9900/bill/sen/sb_03510400/sb_390_bill_19991010_chaptered.html.

56. *The Second Circuit Court's Decision on the U.S. EPA CAFO Rule?*

<http://www.ca2.uscourts.gov/>. Click on "Decisions " and then "Search All" in the left column. Then enter Docket No. "03-4470 (L)" to pull up the decision.

57. *The California Dairy Quality Assurance Program (CDQAP) meeting schedule?*

http://www.waterboards.ca.gov/centralvalley/available_documents/index.html#confined.